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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/670,181	09/26/2000	Alfred D. Roeske	END016	5781

7590 03/15/2004

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EXAMINER

TOOMER, CEPHIA D

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

<b>Office Action Summary</b>	<b>Application No.</b> 09/670,181	<b>Applicant(s)</b> ROESKE, ALFRED D.	
	<b>Examiner</b> Cephia D. Toomer	<b>Art Unit</b> 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 8/25/03;9/12/03.  
 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22,25-27 and 29-41 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 22,25-27 and 29-41 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This Office action is in response to the Request for contained Examination and the amendment filed August 25, 2003. In the amendment claims 22,27,32-40 and claims 2,24, and 28 were canceled.

The rejection of claims 22-24 under 35 USC 112, first paragraph is withdrawn in view of the amendment to the claims.

The 103 rejection of the claims over Calzada (US 6,063,144) is withdrawn in view of the amendment to the claims.

### ***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 22, 25-27 and 29-38 are rejected under 35 USC 103(a) as being unpatentable over Tao (US 6,284,007) for the reasons of record and the following comments.

Applicant argues that the claims distinguish over the art since the fatty acid component is derived from a non-plant source.

The examiner fails to see the difference in a fatty acid derived from a plant source and one derived from a non-plant source. It would be reasonable to expect that the fatty acid would perform its attendant function regardless of the source of the fatty acid. Furthermore, Tao teaches that the fatty acid may come from petrochemical fatty alcohols. See col. 2, lines 60-64.

Applicant argues that an iodine value of 5 or less is not an inherent property of a composition comprising a fully hydrogenated triglyceride. This argument is also submitted in the declaration of Jerry Bertrand.

The examiner recognizes that other factors play into how an iodine value of 5 or less is obtained.

As pointed out in Mr. Bertrand's declaration, purity of the fatty material is one of the determining factors. However, Tao takes this factor into consideration because he teaches at col. 2, lines 57-59 that subsequent additional purification may be performed on the triglycerides. He follows this teaching with the statement that the triglycerides may be fully hydrogenated. These teachings taken together suggest that the triglycerides of Tao possess the claimed iodine values.

Applicant argues that Tao teaches the acceptability of using unsaturated fatty acid components.

The examiner agrees. However at col. 3, lines 1-3 Tao teaches that he prefers to use saturated free fatty acids.

3. Claims 39-41 are rejected under 35 USC 103(a) as being unpatentable over Tao for the reasons of record and in view of Tsaras (US 3, 844,706).

Tao has previously been discussed. Tao fails to teach that the triglyceride is derived from rapeseed, coconut, olive, linseed or sesame. However, Tsaras teaches that the above oils are equivalent to those taught by Tao for the purpose of candle making (see abstract; col. 3, lines 14-19).

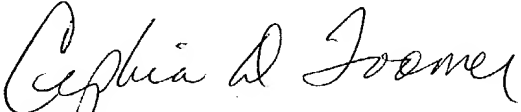
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It would have been obvious to one of ordinary skill in the art to have replaced Tao's plant source derived triglycerides with those of Tsaras because Tsaras teaches that these plant source triglycerides are art recognized equivalents.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Cephia D. Toomer  
Primary Examiner  
Art Unit 1714

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